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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Paper No. 25

Application Number: 09/335,189
Filing Date: June 17, 1999
Appellant(s): YUYAMA ET AL.

Thomas D. Robbins
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed October 24, 2003.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that claims 26-31 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

4,847,764	Halvorson	7-1989
5,537,626	Kraslavsky et al.	7-1996

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 26-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S Patent No. 4,847,764 to Halvorson and U.S. Patent No. 5,537,626 to Kraslavsky et al.

As per claim 26, Halvorson teaches the claimed drug preparation order system for use with a drug preparation order sheet, said system comprising:

--the claimed control unit for carrying out logic operations and outputting control signals is met by the computer (10, Fig. 1);

--the claimed display device connected to said control unit is met (32, Fig. 1); and

--the claimed plurality of printers connected to said control unit is met by all the printers (21, Fig. 1) connected to the computer (10, Fig. 1),

said control unit comprising:

--the claimed memory for storing a plurality of printer codes each corresponding to one of said plurality of printers, a plurality of drug type codes, and a printer setting file defining a correlation between the drug type codes and the printer codes is met by the computer (10, Fig. 1) including data storage which stores long and short term data with regards to the patient's medication and the one or more printers with printer setting in strategic location to provide reports of patient's medication (see: column 2, lines 67 to column 3, lines 12 and 23-27). In

addition, Halvorson teach a system database which includes information about the patient's name and code as well as drug code, taking directions and dosage of all medication for example, the Examiner interprets "sleeve id code" and "quantity of doses of a drug in the sleeve" as a form of drug type code, since Halvorson clearly teaches that different sleeves have different quantity of drug and colored difficult (see: column 9, lines 42-45, 54-55, column 10, line 54 and Fig. 8),

--the claimed input device through which external data can be entered into said memory, said external data comprising a plurality of sets of data, each set comprising drug data, correlating means for correlating each of the plurality of sets of data with one of the drug type codes is met by the keyboard (20, Fig. 1) which allows the user to input drug information (see: column 3, lines 5-12); (note that the "sleeve id code" and "quantity of doses of a drug in the sleeve" of Fig. 9 and 10 are considered by the Examiner to be a form of "drug type data").

--the claimed display means for displaying said correlation between the drug type codes and the printer codes on said display device is met by the monitor (30, Fig. 1) at the dispenser (32, Fig. 1), which displays inputted patient drug information (see: column 3, lines 28-34 and Fig. 1); and

--the claimed altering means for altering said correlation in response to a signal entered through said input device is met by the keyboard (20, Fig. 1) which allows the user to input drug information (see: column 3, lines 5-12).

Halvorson teaches a record for each patient order that indicates the type of issuing package, such as unit dose, multi-dose, or bulk which is a form of drug type or structured correlation to drug preparation data (see: column 10, lines 1-4 and 21-item number 17). In addition, Halvorson teaches a system database which includes information about the patient's

name and code as well as drug code, taking directions and dosage of all medication (see: column 9, lines 42-45, 5455 and column 10, line 54). Moreover, Halvorson teach one or more printers with printer setting in strategic location to provide reports of patient's medication (see: column 2, lines 67 to column 3, lines 12 and 23-27).

Halvorson fails to teach:

--the claimed printer activating means for, in response to a command to print one of the plurality of sets of data, activating one of said printers that corresponds to one of the printer codes corresponding, in accordance with said printer setting file, to one of said drug type codes; and

--the claimed a printer setting file defining a correlation between the drug type codes and the printer codes.

Kraslavsky et al. teaches the using a computer with printing software called Novell NetWare® that allows the user to control (modify) the printer's functions that include creating a new print server and print queues, configuring printing ports (reads on "correlation data to printer codes") and starting or stopping printer (see: column 12, lines 6-13).

Although Kraslavsky et al. does not use the print software in the medical field it would have been an obvious modification to incorporate this software in the medical system taught by Halvorson for a person having ordinary skill in the art at the time of the invention with the motivation of enabling remote printers to be effective and intelligent members of a network (see: Kraslavsky et al. column 1, lines 5-16), thereby enabling printed patient's prescription information to be given out in a timely and more efficient manner.

As per claim 27, Halvorson teaches the claimed first type of communicator connected to said control unit, said first type of communicator being operable to transmit drug preparation order data provided by said control unit is met by dispenser (32, Fig. 1) which receives patient drug data from the central computer (10, Fig. 1) (see: column 3, lines 47-51),

--the claimed plurality of trays, each having a second type of communicator, said plurality of trays and said control unit being combined as a system are met by the plurality of dispenser (32, Fig. 2) including communication interface in the form of computer monitor, keyboard, and printer as seen in Figure 2,

--the claimed said second type of communicators is operable to communicate with said first type of communicator is met by plurality of dispenser (32, Fig. 1) that communicates the central computer (10, Fig. 1) (see: column 3, lines 27-33),

--the claimed said trays has a display portion is met by the dispenser (32, Fig. 1) which has a monitor and trays which hold the drugs (see: Fig. 2), and

--the claimed display portions are operable to display the drug data is met by the monitor (30, Fig. 1) at dispenser (32, Fig. 1) that displays the patient's inputted drug information (see: column 3, lines 28-34 and Fig. 1).

As per claim 28, Halvorson teaches the claimed printers are operable to print on a drug preparation order sheet, information indicating whether drugs have been put into one of said plurality of trays is met (see: column 3, lines 51-53),

--the claimed control unit is operable to transmit identification information to said trays when drug data is transmitted by said first type of communicator is met by the inputting of drug

information by the keyboard (20, Fig. 1) which communicates the central computer (10, Fig. 1) the received inputted drug data (see: column 3, lines 27-33), and

--the claimed control unit is operable to transmit information on whether guidance is necessary when drug data is transmitted by said first type of communicator is met by the inputting of drug information by the keyboard (20, Fig. 1) which then is evaluated by the computer (10, Fig. 1) to made a scheduling prescription (see: column 4, lines 56-63).

As per claim 29, Halvorson teaches the claimed control unit is operable to transmit identification information to said trays when drug data is transmitted by said first type of communicator is met by the inputting of drug information by the keyboard (20, Fig. 1) which then is evaluated by the computer (10, Fig. 1) to made a scheduling prescription (see: column 4, lines 56-63), and

--the claimed control unit is operable to transmit information on whether guidance is necessary when drug data is transmitted by said first type of communicator is met by the inputting of drug information by the keyboard (20, Fig. 1) which then is evaluated by the computer (10, Fig. 1) to made a scheduling prescription (see: column 4, lines 56-63).

As per claim 30, Halvorson teaches the claimed control unit is operable to transmit information on whether guidance is necessary when drug data is transmitted by said first type of communicator is met by the inputting of drug information by the keyboard (20, Fig. 1) which then is evaluated by the computer (10, Fig. 1) to made a scheduling prescription (see: column 4, lines 56-63).

As per claim 31, Halvorson teaches the claimed putting drugs into said plurality of trays according to drug types and a number of days for which the drugs are to be prescribed, the drugs can be assigned to said plurality of trays is met (see: column 3, lines 47-63),

--the claimed printers are operable to print on a drug preparation order sheet, information indicating whether drugs have been put into a plurality of trays is met (see: column 3, lines 5153),

--the claimed control unit is operable to transmit identification information to said trays, when drug data is transmitted by said first type of communicator is met by the inputting of drug information by the keyboard (20, Fig. 1) which communicates the central computer (10, Fig. 1) the received inputted drug data (see: column 3, lines 27-33), and

--the claimed control unit is operable to transmit information on whether guidance is necessary, when drug data is transmitted by said first type of communicator is met by the inputting of drug information by the keyboard (20, Fig. 1) which then is evaluated by the computer (10, Fig. 1) to made a scheduling prescription (see: column 4, lines 56-63).

(11) Response to Argument

In the Appeal Brief filed 24 November 2003, Appellant makes the following arguments:

(A) Does Halvorson teach the correlating means, display means, altering means and printer activating means as required as required in claim 26.

(B) Does Kraslavsky teach memory having a printer setting file, as required in claim 26.

Response to Argument (A)

In response to the first argument, the Examiner respectfully submits that Halvorson teaches a computer (10, Fig. 1) including data storage which stores long and short term data with

regards to the patient's medication and the one or more printers with printer setting in strategic location to provide reports of patient's medication (see: column 2, lines 67 to column 3, lines 12 and 23-27). In addition, Halvorson teach a system database which includes information about the patient's name and code as well as drug code, taking directions and dosage of all medication for example, the Examiner interprets "sleeve id code" and "quantity of doses of a drug in the sleeve" as a form of drug type code, since Halvorson clearly teaches that different sleeves have different quantity of drug and colored difficult (see: column 9, lines 42-45, 54-55, column 10, line 54 and Fig. 8). Halvorson also teaches a monitor (30, Fig. 1) at the dispenser (32, Fig. 1) to display inputted patient drug information and a keyboard (20, Fig. 1) that allows user's to input drug information (see: column 3, lines 5-12 and 28-34 and Fig. 1). Halvorson does teach one or more printers with printer setting in strategic location. However, Halvorson was not relied on for the teachings of the printer activating means, Kraslavsky et al. was relied on for this teaching using a computer with printing software called Novell NetWare® that allows the user to control (modify) the printer's functions that include creating a new print server and print queues, configuring printing ports (reads on "correlation data to printer codes") and starting or stopping printer (see: column 12, lines 6-13).

Response to Argument (B)

In response to the second argument, the Examiner respectfully submits Halvorson is relied on for teach a system database (reads on "memory") which includes information about the patient's name and code as well as drug code, taking directions and dosage of all medication for example, the Examiner interprets "sleeve id code" and "quantity of doses of a drug in the sleeve" as a form of drug type code, since Halvorson clearly teaches that different sleeves have different

quantity of drug and colored difficult (see: column 9, lines 42-45, 54-55, column 10, line 54 and Fig. 8). Kraslavsky et al. was relied on for the teachings of using a computer with printing software called Novell NetWare® that allows the user to control (modify) the printer's functions that include creating a new print server and print queues, configuring printing ports (reads on "correlation data to printer codes") and starting or stopping printer (see: column 12, lines 6-13).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Robert Morgan
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rwm
April 18, 2004

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